

Section 4-1 Introduction

Overlay zones and districts are much like what they sound - they are a zoning district of sorts laid on top of the base-zoning district. For example, an area may be zoned General Industrial, one of the basic zoning districts. Generally speaking, all of the rules and regulations of this zone, the General Industrial Zone, apply to any land use within the zone. Because the area also has a major road running through it, it may also be partially within the Thoroughfare Overlay zone (TOZ). This additional zone is "overlaid" upon the top of the underlying General Industrial zone and its rules and regulations must also be observed. Using overlay zones on top of basic zoning districts helps to customize the actual land use. Overlay zones are designated on the official zoning maps of Cabarrus County.

Section 4-2 How to use this Chapter

Overlay zones in Cabarrus County are organized as follows:

PART I. <u>Watershed Overlay Zone (WOZ)</u> - Regulations on property developed in close proximity to water supplies. Required by the State of N.C.	Sections 4-3 to 4-7
PART II. <u>Waterbody Buffer Zone (WBZ)</u> - This overlay protects all land on each side of all perennial streams, intermittent streams, waterbodies and wetlands in the County.	Sections 4-8 to 4-10
PART III. <u>Thoroughfare Overlay Zone (TOZ)</u> -Assures the protection of major roads in the County by reserving potential right-of-ways along these major roads.	Sections 4-11 to 4-18
PART IV. <u>Airport Overlay District (AOD)</u> - Covers regulations for land in close proximity to airports.	Sections 4-19
PART V. <u>Manufactured Home Overlay Districts (MHOD)</u>	Sections 4-20 to 4-28

PART I WATERSHED OVERLAY ZONE

Section 4-3 Application of Zone

The provisions of this district shall apply within the areas designated as a "Public Water Supply Watershed" by the North Carolina Environmental Management Commission. The designated areas are established on the map entitled "Watershed Protection Map of Cabarrus County, North Carolina" which is adopted simultaneously with this section. Any and all amendments to this overlay district shall take effect and be in force at the date of enactment by the Cabarrus County Board of Commissioners.

Section 4-4 Requirements for all lots in the Coddle Creek and Dutch Buffalo Watersheds

All lots in the following watersheds shall meet the following requirements:

WS-II Watershed Areas:

1. Coddle Creek: WS-II Critical Area and WS-II Balance of Watershed Protected Area
2. Dutch Buffalo Creek: WS-II Critical Area and WS-II Balance of Watershed Protected Area
 1. All lots within the drainage basin's critical area, that is land within 1/2 mile of the high water mark or the ridge line of the watershed (whichever comes first) for the reservoirs, shall have a minimum of two (2) acres. If an open space development is approved, the density for the site shall remain one dwelling per two (2) acres for development.
 2. All lots in the balance of the watershed protected area shall have a minimum square footage of one acre, or one dwelling unit per acre, or meet requirements of the *Cabarrus County Zoning Ordinance*, whichever is more stringent.

Section 4-5 Additional requirements for property located in a WS-II Critical Area (within 1/2 mile of the high water mark for reservoirs)

1. No commercial or industrial development shall be permitted in the WS-II Critical Area.
2. A 150-foot vegetative buffer shall be maintained from the normal pool level on all property adjoining the reservoir. No permanent structures shall be allowed within this buffer area.
3. Waterbody buffers shall be established as detailed in the Waterbody Buffer Zone section of this Ordinance.
4. All non-single family residential and nonresidential development of lots within the critical area shall have an impermeable area of less than six percent (6%).

5. No industrial or commercial hazardous material shall be used or stored in this 1/2-mile area.
6. Landfills and sites for land application of residuals or petroleum contaminated soils are specifically prohibited.
7. Development of residential lots within the WS-II Critical Area shall have an impermeable area of less than twelve percent (12%).

For property located in the balance of the WS-II watershed protected area, the following requirements shall be met:

1. Development of lots within the balance of the WS-II watershed protected area shall have an impermeable area of less than twelve percent (12%).
2. Waterbody buffers shall be established as required by the Waterbody Buffer Zone section of this Ordinance.

Section 4-6 Requirements for the Coldwater Creek -Lake Concord, Coldwater Creek-Lake Fisher and Tuckertown Reservoir WS-IV Watersheds

Coldwater Creek -Lake Concord: WS-IV Critical Area and WS-IV Balance of Watershed Protected Area

Coldwater Creek-Lake Fisher: WS-IV Critical Area and WS-IV Balance of Watershed Protected Area and

Tuckertown Reservoir: WS-IV Critical Area and WS-IV Balance of Watershed Protected Area

All land in the Coldwater Creek-Lake Concord, Coldwater Creek-Lake Fisher, and Tuckertown Reservoir watersheds have been classified by the North Carolina Environmental Management Commission as "Watersheds IV" drinking waters.

The following requirements apply to both the WS-IV Critical Area and the WS-IV Balance of Watershed Protected Area of these watersheds:

1. Unless prohibited by the underlying zoning district, densities are permitted up to two (2) dwelling units per acre.
2. All other residential and non-residential development shall not exceed twenty-four (24%) percent built-upon area for the site.
3. Landfills and sites for land application of residuals or petroleum contaminated soils are specifically prohibited.

Any existing development within the watershed area may be continued, as governed by other sections of the Zoning Ordinance, and is subject to the following provisions:

1. Existing lot, lot of record: Platted but non-developed (vacant) existing lots of record may be used even if undersized, provided that the standards of the Ordinance for the applicable zoning district can be met.
2. Developed lots: Lots that were developed prior to the adoption of the watershed regulations on December 20, 1993 are considered grandfathered lots. Built-upon area, for purposes of complying with the Watershed Overlay Zone standards, shall be determined by using additions to the site occurring after the adoption date of this section of the ordinance. Historical survey data, Cabarrus County Geographic Information Systems data and land records data shall be used to determine the base built-upon area for Watershed Overlay Zone compliance and for permitting purposes. In no case, however, shall the overall built-upon area for a property exceed the impervious or structural coverage allowed for the underlying zoning district.

Section 4-7 Appeals and Variances

Appeal of Zoning Administrator Decision

As with all enforcement and administration, decisions of the Zoning Administrator may be appealed to the Cabarrus County Planning and Zoning Commission acting as a Board of Adjustment. Any appeal shall be reviewed by the Board under the standards used in granting a variance (see Chapter 12).

Variance Requests

The Planning and Zoning Commission, acting as Board of Adjustment, shall have the power to authorize, in specific cases, minor variances from the terms of this Ordinance as will not be contrary to the public interests where, owing to special conditions, a literal enforcement of this Ordinance will result in practical difficulties or unnecessary hardship, so that the spirit of this Ordinance shall be observed, public safety and welfare secured, and substantial justice done. In addition, Cabarrus County shall notify and allow a reasonable comment period for all other local governments having jurisdiction in the designated watershed where the variance is being considered.

Applications for a variance shall be made on the proper form obtainable from the Zoning Administrator and shall include the following information:

1. A site plan, drawn to a scale of at least one (1) inch to forty (40) feet, indicating the property lines of the parcel upon which the use is proposed; any existing or proposed structures; parking areas and other built-upon areas; surface water drainage. The site plan shall be neatly drawn and indicate north point, name and address of person who

prepared the plan, date of the original drawing, and an accurate record of any later revisions.

2. A complete and detailed description of the proposed variance, together with any other pertinent information which the applicant feels would be helpful to the Planning and Zoning Commission, acting as Board of Adjustment, in considering the application.
3. The Zoning Administrator shall notify in writing each local government having jurisdiction in the watershed and the entity using the water supply for consumption. Such notice shall include a description of the variance being requested. Local governments receiving notice of the variance request may submit comments to the Zoning Administrator prior to a decision by the Planning and Zoning Commission, acting as Board of Adjustment. Such comments shall become a part of the record of proceedings of the Planning and Zoning Commission, acting as Board of Adjustment.

Before the Planning and Zoning Commission, acting as Board of Adjustment, may grant a variance, it shall make the following three findings, which shall be recorded in the permanent record of the case, and shall include the factual reasons on which they are based:

- a. There are practical difficulties or unnecessary hardships in the way of carrying out the strict letter of the Ordinance. In order to determine that there are practical difficulties or unnecessary hardships, the Board must find that the five following conditions exist:
 - i. If he complies with the provisions of the Ordinance, the applicant can secure no reasonable return from, nor make reasonable use of, his property. Merely proving that the variance would permit a greater profit to be made from the property will not be considered adequate to justify the Board in granting a variance. Moreover, the Board shall consider whether the variance is the minimum possible deviation from the terms of the Ordinance that will make possible the reasonable use of his property.
 - ii. The hardship results from the application of the Ordinance to the property rather than from other factors such as deed restrictions or other hardship.
 - iii. The hardship is due to the physical nature of the applicant's property, such as its size, shape, or topography, which is different from that of neighboring property.
 - iv. The hardship is not the result of the actions of an applicant who knowingly or unknowingly violates the Ordinance, or who purchases the property after the effective date of the Ordinance, and then comes to the Board for relief.
 - v. The hardship is peculiar to the applicant's property, rather than the result of conditions that are widespread. If other properties are equally subject to the hardship created in the restriction, then granting a variance would be a special privilege denied to others, and would not promote equal justice.

- b. The variance is in harmony with the general purpose and intent of the Ordinance and preserves its spirit.
- c. In the granting of the variance, the public safety and welfare have been assured and substantial justice has been done. The Board shall not grant a variance if it finds that doing so would in any respect impair the public health, safety, or general welfare.

In granting the variance, the Board may attach thereto such conditions regarding the location, character, and other features of the proposed building, structure, or use as it may deem advisable in furtherance of the purpose of this ordinance. If a variance for the construction, alteration or use of property is granted, such construction, alteration or use shall be in accordance with the approved site plan.

The Planning and Zoning Commission, acting as Board of Adjustment shall refuse to hear an appeal or an application for a variance previously denied if it finds that there have been no substantial changes in conditions or circumstances bearing on the appeal or application.

A variance issued in accordance with this Section shall be considered a Watershed Protection Permit and shall expire if a Building Permit or Watershed Occupancy Permit for such use is not obtained by the applicant within six (6) months from the date of the decision.

If the application calls for the granting of a major variance, and if the Planning and Zoning Commission, acting as Board of Adjustment, decides in favor of granting the variance, the Board shall prepare a preliminary record of the hearing with all deliberate speed. The preliminary record of the hearing shall include:

- a. The variance application;
- b. The hearing notices;
- c. The evidence presented;
- d. Motions, offers of proof, objections to evidence, and rulings on them;
- e. Proposed findings and exceptions;
- f. The proposed decision, including all conditions proposed to be added to the permit.

The preliminary record shall be sent to the Environmental Management Commission for its review as follows:

If the Environmental Management Commission concludes from the preliminary record that the variance qualifies as a major variance and that

- a. the property owner can secure no reasonable return from, nor make any practical use of the property unless the proposed variance is granted, and
- b. the variance, if granted, will not result in a serious threat to the water supply,

then the Environmental Management Commission (EMC) shall approve the variance as proposed or approve the proposed variance with conditions and stipulations.

The Environmental Management Commission shall prepare a Commission decision and send it to the Planning and Zoning Commission, acting as Board of Adjustment. If the EMC approves the variance as proposed, the Planning and Zoning Commission, acting as Board of Adjustment, shall prepare a final decision granting the proposed variance. If the EMC approves the variance with conditions and stipulations, the Planning and Zoning Commission, acting as Board of Adjustment shall prepare a final decision, including such conditions and stipulations, granting the proposed variance.

If the EMC concludes from the preliminary record that the variance qualifies as a major variance and that

- a. the property owner can secure a reasonable return from or make a practical use of the property without the variance or
- b. the variance, if granted, will result in a serious threat to the water supply,

then the Commission shall deny approval of the variance as proposed.

The Commission shall prepare a Commission decision and send it to the Planning and Zoning Commission, acting as Board of Adjustment. The Board shall prepare a final decision denying the variance as proposed.

Appeal of Decision of the Planning and Zoning Commission, acting as Board of Adjustment

Appeals from the Planning and Zoning Commission, acting as Board of Adjustment, must be filed with the Superior Court within 30 days from the date of the decision. Decisions by the Superior Court will be in the manner of certiorari.

4-7.1 Rules Governing the Interpretation of Watershed Area Boundaries.

Where uncertainty exists as to the boundaries of the watershed areas, as shown on the Watershed Map, the following rules shall apply:

1. Where area boundaries are indicated as approximately following either street, alley, railroad or highway lines or centerlines thereof, such lines shall be construed to be said boundaries.
2. Where area boundaries are indicated as approximately following lot lines, such lot lines shall be construed to be said boundaries. However, a surveyed plat prepared by a registered land surveyor may be submitted to Cabarrus County as evidence that one or more properties along these boundaries do not lie within the watershed area.
3. Where the watershed area boundaries lie at a scaled distance more than twenty-five (25) feet from any parallel lot line, the location of watershed area boundaries shall be determined by use of the scale appearing on the watershed map.

4. Where the watershed area boundaries lie at a scaled distance of twenty-five (25) feet or less from any parallel lot line, the location of watershed area boundaries shall be construed to be the lot line.
5. Where other uncertainty exists, the Zoning Administrator shall interpret the Watershed Map as to location of such boundaries. This decision may be appealed to the Planning and Zoning Commission, acting as Board of Adjustment.

4-7.2 Definitions related to administration of Watershed Overlay Zone

Agricultural Use- The use of waters for stock watering, irrigation, and other farm purposes.

Best Management Practices (BMP)- A structural or nonstructural management-based practice used singularly or in combination to reduce nonpoint source inputs to receiving waters in order to achieve water quality protection goals.

Buffer- An area of natural or planted vegetation through which stormwater runoff flows in a diffuse manner so that the runoff does not become channelized and which provides for infiltration of the runoff and filtering of pollutants. The buffer is measured landward from the normal pool elevation of impounded structures and from the bank of each side of streams or rivers.

Critical Area- The area adjacent to a water supply intake or reservoir where risk associated with pollution is greater than from the remaining portions of the watershed. The critical area is defined as extending either one-half mile from the normal pool elevation of the reservoir in which the intake is located or to the ridge line of the watershed (whichever comes first); or one-half mile upstream from the intake located directly in the stream or river (run-of-the-river), or the ridge line of the watershed (whichever comes first). Local governments may extend the critical area as needed. Major landmarks such as highways or property lines may be used to delineate the outer boundary of the critical area if these landmarks are immediately adjacent to the appropriate outer boundary of one-half mile.

Development-Any land disturbing activity which adds to or changes the amount of impervious or partially impervious cover on a land area or which otherwise decreases the infiltration of precipitation into the soil.

Existing Development-Those projects that are built or those projects that at a minimum have established a vested right under North Carolina zoning law as of the effective date of this ordinance (December 20, 1993) based on at least one of the following criteria:

- a. substantial expenditures of resources (time, labor, money) based on a good faith reliance upon having received a valid local government approval to proceed with the project, or
- b. having an outstanding valid building permit as authorized by the General Statutes (G.S. 153A-344.1 and G.S. 160A-385.1), or

- c. having an approved site specific or phased development plan as authorized by the General Statutes (G.S. 153A-344.1 and G.S. 160A-385.1).

Existing Lot (Lot of Record)-A lot which is part of a subdivision, a plat of which has been recorded in the Office of the Register of Deeds prior to the adoption of this ordinance on December 20, 1993, or a lot described by metes and bounds, the description of which has been so recorded prior to the adoption of this ordinance.

Major Variance- A variance from the minimum statewide watershed protection rules that results in any one or more of the following:

- a. the relaxation, by a factor greater than ten (10) percent, of any management requirement under the low density option;
- b. the relaxation, by a factor greater than five (5) percent, of any buffer, density or built-upon area requirement under the high density option;
- c. any variation in the design, maintenance or operation requirements of a wet detention pond or other approved stormwater management system.

Minor Variance- A variance from the minimum statewide watershed protection rules that results in a relaxation, by a factor of up to five (5) percent of any buffer, density or built-upon area requirement under the high density option; or that results in a relaxation, by a factor of up to ten (10) percent, of any management requirement under the low density option.

Protected Area-The area adjoining and upstream of the critical area of WS-IV watersheds. The boundaries of the protected area are defined as within five miles of and draining to the normal pool elevation of the reservoir or to the ridgeline of the watershed; or within 10 miles upstream and draining to the intake located directly in the stream or river or to the ridgeline of the watershed.

Variance-A permission to develop or use property granted by the Cabarrus County Planning and Zoning Commission, acting as Board of Adjustment, relaxing or waiving a water supply watershed management requirement adopted by the Environmental Management Commission that is incorporated into this ordinance.

Watershed-The entire land area contributing surface drainage to a specific point (e.g. the water supply intake.)

4-7.4 Word Interpretation

For the purpose of this Watershed Overlay Zone, certain words shall be interpreted as follows:

- Words in the present tense include the future tense.
- Words used in the singular number include the plural, and words used in the plural number include the singular, unless the natural construction of the wording indicates otherwise.

- The word "person" includes a firm, association, corporation, trust, and company as well as an individual.
- The word "structure" shall include the word "building."
- The word "lot" shall include the words, "plot," "parcel," or "tract."
- The word "shall" is always mandatory and not merely directory.
- The word "will" is always mandatory and not merely directory.

PART II WATERBODY BUFFER ZONE

Section 4-8 Intention of Waterbody Buffer Zone

The purpose of the Waterbody Buffer Zone is to provide protected, vegetated strips of land adjacent to streams, rivers, lakes, ponds, impoundments, or wetlands. These buffers are retained in a natural, undisturbed, state, in an effort to avoid erosion problems and to reduce the velocity of overland flow, thus trapping sediment and soil eroded from cropland or land being developed to limit pollutants from entering the waterway.

Section 4-9 Effect upon bona fide farms

While North Carolina law exempts bona fide farms from local zoning regulations, the County strongly encourages the use of best management practices in farming. A waterbody buffer is one of these practices and is therefore consistent with North Carolina Sediment Control Law and thus is a 75% reimbursable North Carolina Agricultural Cost - Share Program. This program is administered through the Cabarrus Soil and Water District. The following text shall apply to all development or changing of conditions (e.g., timbering, land clearing, etc.) adjacent to waterbodies as defined below.

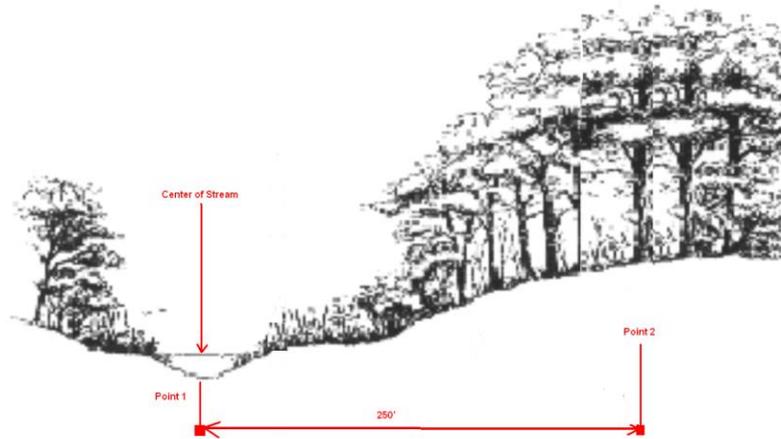
4.9-1-Impoundments for agricultural purposes

Impoundments used primarily for bona fide agricultural purposes, including animal watering, irrigation, or other agricultural uses shall not be subject to buffering requirements unless the waterbody is part of a natural drainage way (i.e., unless the waterbody is located on a Class 1 or Class 2 stream);

Section 4-10 Requirements of the Waterbody Buffer Zone

1. A minimum 50-foot buffer shall be established from the stream bank on all sides of perennial or Class 1 streams in addition to any lakes, ponds or impoundments. Class 1 streams include all rivers, streams, lakes, ponds or waterbodies shown on the USGS Quadrangle Maps as a solid blue line or identified in the Cabarrus County Geographic Information System.
2. A minimum 30 foot stream buffer shall be established from the stream bank on all sides of all intermittent or Class 2 streams and any identified wetlands. Class 2 Streams shall

- include all rivers or streams shown on the USGS Maps as dotted or dashed blue lines, identified as a stream on the NCRS Soil Survey for Cabarrus County, identified on the Cabarrus County Geographic Information System or identified as a stream by a qualified stream classification professional as defined in Section 4-10.4
3. The applicant must provide a detailed survey that field verifies the location of all perennial and intermittent streams, lakes, ponds, impoundments and wetlands on the subject property and within 100 feet of the boundary of the subject property for all proposed plats and site plans.
 4. Streams may exist even if they are not mapped on the USGS Quadrangle Maps or NCRS Soil Survey Maps. A qualified professional must identify streams that exist on the site but are not mapped. For purposes of this section, a qualified professional shall mean an individual that has attended wetlands delineation training using application of the 1987 Wetland Delineation Manual by the US Army Corps of Engineers and Identification of Perennial and Intermittent Streams training supported by the North Carolina Division of Water Quality.
 5. The determination that a waterbody or stream indicated on a USGS Map or NRCS soil survey map does not exist must be concurred by the NCDENR Division of Water Quality and/or the US Army Corps of Engineers.
 6. The Waterbody Buffer Zone shall be determined and clearly delineated on site prior to any development or pre-development activity occurring in order to protect the required buffer from encroachment or damage. No development, including soil disturbing activities or grading, shall occur within the established buffer area.
 7. The waterbody buffer shall be maintained as follows and shall be shown on all site plans or subdivision plats related to the project submitted for review, including soil and erosion control plans:
 - a. The size of a perennial stream or Class 1 waterbody buffer shall be measured from the annual average stream bank, perpendicularly for a distance of 50 feet plus 4 times the average percent of slope of area adjacent to the stream. This slope shall be calculated by measuring a distance of 250 feet from the center of the stream. The percent of slope for this distance shall serve as the determining factor. However, the maximum distance shall not exceed 120 feet from the edge of the stream. For Lakes, ponds or impoundments, the buffer shall be computed using the high water elevation in place of the stream bank in the calculation.

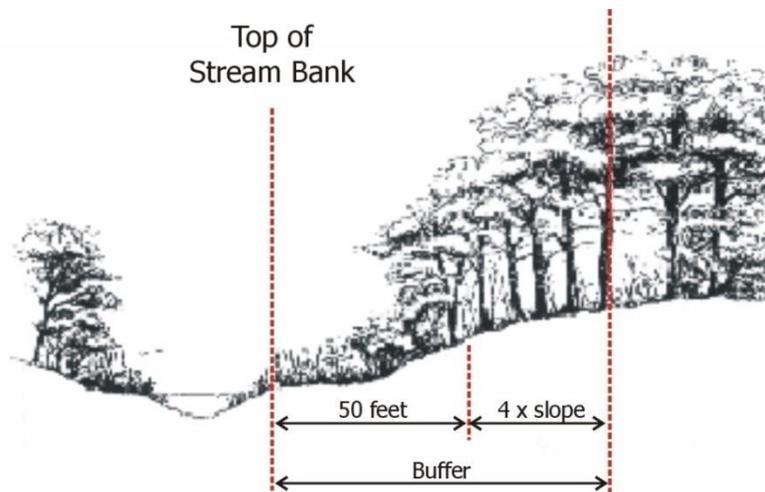


Pre-development elevation of Point 1 in feet = E1

Pre-development elevation of Point 2 in feet = E2

$$S = \frac{E2 - E1 \text{ (feet)}}{250 \text{ feet}} \times 100$$

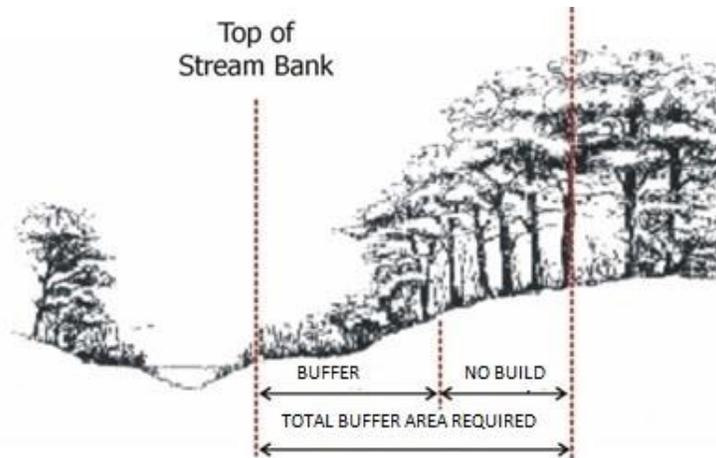
250 feet



$$\text{Width} = [50 + (4 \times S)]$$

Minimum width: 50 feet (areas with flat slopes)

Maximum width: 120 feet (areas with steep slopes)



- b. The size of an intermittent stream or Class 2 waterbody buffer shall be measured from the annual average stream bank perpendicularly for a distance of 30 feet on either side of the waterbody.
8. All buffer areas shall remain in a natural, vegetated state. If the buffer area is wooded, it shall remain undisturbed.
9. When agricultural soil disturbing activities such as plowing, grading, ditching, excavating, placement of fill material, or similar activities must occur near the buffer zones, they shall conform to all State and Federal regulations. Other unnamed agricultural activities that would result in significant disturbance of the existing soil, increase soil erosion, or destroy plant and wildlife habitats can only occur with an approved replacement program and shall also be consistent with North Carolina Sediment Control Law and in coordination with the North Carolina Wildlife Resources Commission's District 6 Biologist, and in consultation with the Cabarrus Soil and Water District Representative. Existing agricultural operations, forested or vegetated areas within stream buffer areas shall follow the State's forest practice guidelines which include best management practices (BMPs) as defined by the North Carolina Soil and Water Conservation Commission.
10. Buffer Encroachments:
 - a. Sewer Easements: Permitted encroachments in the buffer area include sewer easements, providing the activities strictly adhere to applicable state and local soil and erosion control regulations/guidelines. Perennial vegetation must be established as a necessary step in completing construction of any sewer facilities. Sewer easements should be as close to perpendicular or parallel to the stream channel to minimize the impact on the stream buffer.

- b. Utilities: Overhead and/or underground utilities, roads, streets, bridges, or similar structures should be placed within existing public or private rights-of-way and must cross the buffer area as close to perpendicular as possible.
 - c. Driveways and Roads that Pre-date Waterbody Buffer Zone Adoption: Where residential driveways, right-of-ways, private streets or roads used for agricultural purposes on bona fide farms were installed prior to the adoption of this section of the zoning ordinance (July 23, 1990) and encroach into the required buffers, these roads may remain and continue to be used to access the property. These driveways, right-of-ways, private streets or farm roads, however, may only be improved if it is required for emergency vehicle access.
 - d. Structures that Pre-date Waterbody Buffer Zone Adoption: Where structures that pre-date the adoption of this section of the zoning ordinance (July 23, 1990) are located in the required buffer areas, these structures may be expanded by up to 50% percent (50%) of the square footage of the structure upon the issuance of a Certificate of Non-conformity Adjustment. To the greatest extent possible, expansions should be directed away from the buffer area. See Chapter 14 for additional information related to the Certificate of Non-conformity Adjustment process.
 - e. Fences are permitted within the buffer area, provided that the design does not interfere with the flow of water through the buffer area to the waterbody.
11. Any proposed recreation facilities or greenways must be located a minimum of 60' from the top of the stream bank. This includes any proposed pedestrian, hiking or biking trails. Recreational structures are not permitted in the waterbody buffer.
12. In the event that a buffer is disturbed, all disturbed areas within the buffer zone shall be revegetated with appropriate vegetation immediately.
13. A progress report shall be submitted by the individual, corporation, or company disturbing land in the Waterbody Buffer Zone to the Cabarrus County Planning and Zoning Department within 60 days of approval of the replacement program by the Soil and Water Conservation District staff. Two other reports may be required at 120 and 180 days if the program is not completed. The first two reports shall explain what work has been completed and any results as well as a time schedule for completion of the rest of the program. The final report shall document that the replacement program has been completed. The site shall be regularly inspected by the enforcement branch of the Cabarrus County Planning and Zoning Department and the Cabarrus Soil and Water

Conservation District to assure activity and compliance. Any noncompliance shall be treated as a zoning violation and be subject to enforcement as described in Chapter Twelve of this Ordinance.

14. A minimum setback for all buildings from the buffer for waterbodies as classified and defined in Section 4-10-1 shall be at least 20 feet. For waterbodies classified and defined in Section 4-10-2, the setback shall be a minimum of 10 feet from the buffer. If there is a difference in the zoning ordinance setback and the no build buffer, the greater of the two shall apply. No building or structures shall be permitted in the no build buffer area.

15. Where the Waterbody Buffer Zone or no build buffer impacts or is part of a lot, a note shall be placed on the plat or site plan and a restriction shall become part of the deed for the property stating that said property is subject to the Waterbody Buffer Zone.
 - a. Land within a stream buffer shall not be used to meet the minimum area requirements for lots that are one acre or less.
 - b. If a lot is greater than one acre in area, except where lots are greater than one acre in area, the buffer area may be used to meet the minimum lot size requirements, however, at least 50 percent of the lot shall remain outside the stream buffer area.

16. Applicants and property owners are strongly encouraged to consider the dedication of property or easements subject to the Waterbody Buffer Zone to one of the following when appropriate:
 - o Property/Home Owners Association
 - o Cabarrus Soil and Water Conservation District
 - o A conservation organization

PART III THOROUGHFARE OVERLAY (TOZ) ZONE

Section 4-11 Intention

The orderly development of land is dependent upon the protection of existing and proposed major roads in the County. It is extremely important because thoroughfares commonly establish a positive image of the quality of life in the County for visitors and residents alike. Preservation of this natural beauty is required to enhance trade, capital investment, tourism and general welfare.

The purpose of the Thoroughfare Overlay Zone (TOZ) is to help assure protection will be included in all land uses developed along several key roadways. Accordingly, these regulations

are made with consideration to both the County's land development plan and area plans. They are designed to promote the health and general welfare of the residents of Cabarrus County as well as preserve property values and encourage appropriate land usage. And, finally, these regulations will facilitate the provision of transportation by promoting the safe and efficient movement of traffic and by encouraging development which reduces or eliminates visual clutter, excessive driveway cuts, and poor site layout.

Section 4-12 Setback requirements

All roads classified as minor thoroughfares, major thoroughfares, boulevards, expressways or freeways, in the Cabarrus Rowan Metropolitan Planning Organization (CRMPO) Comprehensive Transportation Plan or listed in the Comprehensive Transportation Plan Index, are subject to the Right-of-Way standards as adopted in the referenced documents.

The setback is measured from the edge of the proposed right-of-way. These setbacks will be in addition to the setbacks required in the applicable zone by the Cabarrus County Zoning Ordinance.

Section 4-13 Additional requirements

Arterial roadways US 29, NC 49, NC 73, NC 24-27, and US 601 are subject to the following. In addition, roadways referenced within the following shall also be subject to the additional requirements beginning in Section 4-16.

1. An official roadway corridor map approved by the Cabarrus County Board of Commissioners.
2. A comprehensive street system plan, collector street plan, or thoroughfare plan adopted by the Cabarrus County Board of Commissioners.
3. A North Carolina Department of Transportation (NCDOT) annual construction program or a multi-year transportation improvement plan.
4. The Cabarrus Rowan Metropolitan Planning Organization (CRMPO) Comprehensive Transportation Plan and the Comprehensive Transportation Plan Index.

Section 4-14 Establishment of zone

The Thoroughfare Overlay Zone (TOZ) shall be superimposed along both sides of the above mentioned and proposed roads, which extend into the County's planning and zoning jurisdiction. As an overlay zone, it does not control the permitted or conditional uses therein, but provides additional development requirements and standards, which are applied within the coverage area.

Section 4-15 Site plan requirements

Any of the permitted or conditional land uses allowed in the underlying district(s) shall submit a site plan with the following information:

1. Location and arrangement of automobile parking, access, and circulation patterns.
2. Location and use of existing buildings and accessory structures.
3. Location of existing and proposed signs.
4. Location of all streets, existing or proposed, storm sewer, and drainage structures.
5. Existing and proposed rights-of-way including streets, sidewalks, and utilities.
6. Boundary of the proposed project, adjacent property owners, land use, and zoning.
7. Notation of distance to all major and minor thoroughfares designated in the Cabarrus Rowan Metropolitan Planning Organization (CRMPO) Comprehensive Transportation Plan and all collector streets within five hundred (500) feet of the property.
8. Existing and proposed topography at five (5) foot intervals.
9. Any additional items required in other sections of this or other ordinances.

After approval of a site plan by the Zoning Administrator, a copy of the approved plan shall be filed within the Office of the Department of Planning, Zoning, and Building Inspection. All land use permits shall be issued only for structures or dwellings that comply with this approved plan.

Section 4-16 Thoroughfare Required Landscape Yard

A fifteen (15) foot landscape yard is required from the right-of-way as identified in Section 4-13.

This fifteen (15) foot landscape yard shall contain a mixture of the following: one tree which will reach a level of six (6) feet within three (3) years every thirty (30) linear feet of frontage, shrubs at a rate of one per every 50 Square Feet of planting area, decorative trees (miniature trees if located under power lines), and grass.

No permanent structures shall be built in the required setback area.

Section 4-17 Additions to existing properties

If additions are planned for the properties located along the above mentioned roadways, then these additions shall meet the designated right-of-way and setback as listed in the Cabarrus Rowan Metropolitan Planning Organization (CRMPO) Comprehensive Transportation Plan, the Comprehensive Transportation Plan Index, and the County's Zoning Ordinance. Any additions,

five (5%) percent or less of the original square footage at the time of adoption of the TOZ, shall be exempt from the TOZ requirements.

Section 4-18 Access points

The term access point(s) shall mean a point of ingress and/or egress, which may be either public or private.

1. New Lots. All new lots, parcels or divisions of land shall be provided access to the thoroughfare by means of a subdivision street or an entrance either maintained or approved by the State of North Carolina or approved by the Cabarrus County Zoning Ordinance or Subdivision Regulations. Subdivision streets accessing the thoroughfare shall be located at least four (400) hundred feet apart. Where no more than two lots are created within the internal lot in a single block lying within the TOZ, a single vehicular access provision shall be made from the thoroughfare.

2. Lots of Record. Any lots of record at the time of the adoption of this Ordinance shall be allowed one access point. However, if lots of records are corner lots then the access point shall be located on the road of minor classification no closer than one hundred twenty-five (125) feet or the greatest possible distance from the intersection with the thoroughfare.

3. Corner Lots. Corner lots fronting on two (2) thoroughfares may have one access point from each thoroughfare. However, the access shall meet the one hundred twenty-five (125) foot distance requirement, or the greatest possible distance.

4. Additional Access Points. An additional access point may be approved, at the discretion of the North Carolina Department of Transportation, for access to Commercial or Industrial property. The approval of this additional access point shall require the construction of both a left turn and deceleration lane to serve that entrance. The area of these lanes used for vehicular storage shall be of standard lane width (12 feet) and adequate in length to store a standard tractor-trailer and two automobiles. In no event shall adjacent access points be closer than 100 feet to each other, as measured from the nearest curbs or edges of pavement, excluding any area of the access flared to improve vehicle ingress or egress. This requirement may be waived if no other access to the property would be possible.

The additional access point shall be no more than 32 feet in width, and shall be defined by a curb on both ends of the access point. A standard sight triangle (10' by 70') shall be maintained on the portion of curb adjoining the access point. No structure, sign, planting, etc. shall be placed in the sight triangle that would interfere with the tractor-trailer being able to enter or exit the property in one continuous movement.

The area required for these improvements to provide an additional access may not be included in the area required for the Thoroughfare yard (see Section 4-17.)

Part IV Airport Overlay (AOD) District

Section 4-19 Purpose

This district is established to prevent the creation or establishment of obstructions or land uses that are hazards to air navigation, thereby protecting the lives and property of the users of the Concord Regional Airport, the property and occupants of land in the vicinity, and the public investment in the airport. This district is further intended to provide for the safe landing, take-off, and maneuvering of aircraft in accordance with Federal Aviation Administration (FAA) standards.

a. Location

The AOD Overlay District shall overlap and overlay the base zoning districts. Said overlay district may be expanded by adding additional land area from time to time.

b. Principal, Conditional, and Accessory Uses

Permitted principal uses, conditional uses and accessory uses shall be those within the underlying zoning district as set forth in Section 3-8, Table of Permitted Uses.

c. Use Restrictions

No use may be made of land or water within any zone established by these regulations in such a manner as to create electrical interference with navigational signals or radio communication between the airport and aircraft, make it difficult for pilots to distinguish between airport lights and others, result in glare in the eyes of pilots using the airport, impair visibility in the vicinity of the airport, attract birds or other concentrations of wildlife, or otherwise in any way create a hazard or endanger the landing, take-off or maneuvering of aircraft intending to use the airport.

d. Area Regulations

Dimensional requirements such as lot size, height and setbacks shall be governed by the underlying zoning districts. In no event shall the height of any structure exceed the maximum height permitted by the underlying zoning district.

e. General Development Standards

1. In order to carry out the provisions of these regulations, there are hereby created and established within the Concord Regional Airport certain zones which include all of the land lying within the approach zones, transitional zones, horizontal zones and conical zones, as they apply to the more restrictive height limitation. Such zones are shown on the Official Concord Regional Airport Hazard Zoning Map. An area located in more than one of the following zones shall be subject to the Airport Overlay District.
2. The various zones are hereby established and defined in Column (B) of the following table. No structure or tree shall be erected, altered, allowed to grow or be maintained in any of the zones created by these regulations to a height in excess of the applicable height limit herein established for such zone. Unless otherwise specified, the height shall be measured from mean sea level.

CABARRUS COUNTY DEVELOPMENT ORDINANCE
 CHAPTER 4-OVERLAY DISTRICTS AND ZONES

(A) ZONE	(B) DESCRIPTION	(C) HEIGHT RESTRICTION
PRECISION INSTRUMENT RUNWAY APPROACH ZONE	The inner edge of this approach zone coincides with the width of the primary surface and is 1,000 feet wide. The approach zone expands outward uniformly to a width of 16,000 feet at a horizontal distance of 50,000 feet from the primary surface, its center line being the continuation of the center line of the runway.	Slopes upward 50 feet horizontally for each foot vertically beginning at the end of and at the same elevation as the primary surface and extending to a horizontal distance of 10,000 feet along the extended runway center line, then at a slope of 40:1 for an additional 40,000 feet.
LOCAL BUFFER APPROACH ZONE	The extent of this zone coincides with the PRECISION INSTRUMENT RUNWAY APPROACH ZONE as described above.	Uses shall not exceed the maximum height specified for the PRECISION INSTRUMENT RUNWAY APPROACH ZONE less ten (10) feet on southern approach only. Uses encroaching into this zone shall be allowed only as special uses, and shall not be constructed, erected, or otherwise established unless and until a special use permit has been issued.

CABARRUS COUNTY DEVELOPMENT ORDINANCE
CHAPTER 4-OVERLAY DISTRICTS AND ZONES

(A) ZONE	(B) DESCRIPTION	(C) HEIGHT RESTRICTION
TRANSITIONAL ZONES	<p>These zones are hereby established as the area beneath the transitional surfaces. These surfaces extend outward and upward at 90-degree angles to the runway center line and the runway center line extended a slope of seven feet horizontally for each foot vertically from the sides of the primary and approach surfaces to where they intersect the horizontal and conical surfaces. Transitional zones for those portions of the precision approach zones, which project through and beyond the limits of the conical surface, extend a distance of 5,000 feet measured horizontally from the edge of the approach zones and at 90-degree angles to the extended runway center line.</p>	<p>Slopes upward and outward seven feet horizontally for each foot vertically beginning at all the sides of and at the same elevation as the primary surface and the approach zones and extending to a height of 150 feet above the airport elevation, or 840 feet above mean sea level. In addition to the foregoing, there are established height limits sloping upward and outward seven feet horizontally for each foot vertically beginning at the sides of and at the same elevation as the approach zones and extending to where they intersect the conical surface. Where the precision instrument run approach zone projects beyond the conical zone, height limits sloping upward and outward seven feet horizontally for each foot vertically shall be maintained beginning at the sides of and at the same elevation as precision instrument runway approach surface and extending to a horizontal distance of 5,000 feet from the edge of the approach surface measured at 90-degree angles to the extended runway center line.</p>
HORIZONTAL ZONE	<p>The horizontal zone is hereby established by swinging arcs of 10,000 feet radii from the center of each end of the primary surface of each runway and connection the adjacent arcs by drawing lines tangent to those arcs</p>	<p>One hundred fifty feet about the airport elevation or a height of 840 feet above mean sea level.</p>

(A) ZONE	(B) DESCRIPTION	(C) HEIGHT RESTRICTION
CONICAL ZONE	The conical zone is hereby established as the area that commences at the periphery of the horizontal zone and extends outward there from a horizontal distance of 4,000 feet.	Slopes upward and outward 20 feet horizontally for each foot vertically beginning at the periphery of the horizontal zone and at 150 feet above the airport elevation and extending to a height of 350 feet above the airport elevation, or 1,040 feet above mean sea level.

f. Nonconforming Uses

- The regulations prescribed by this Ordinance shall not be construed to require the removal, lowering or other changes or alteration of any structure or tree not conforming to the regulations as of the effective date of these regulations, or otherwise interfere with the continuance of a nonconforming use. Nothing contained herein shall require any change in the construction, alteration or intended use of any structure, the construction or alteration which was begun prior to the effective date of these regulations, and is diligently prosecuted.
- No zoning permit shall be granted that would allow the expansion of a nonconforming use, structure or tree to become a greater hazard to air navigation than it was on the effective date of these regulations when the application for a permit is made.
- Notwithstanding the preceding provision of this Section, the owner of any existing nonconforming structure or tree is hereby required to permit the installation, operation and maintenance thereon of such markers and lights as shall be deemed necessary by the Administrator after consultation with the Concord Regional Airport Aviation Director to indicate to the operators of aircraft in the vicinity of the airport the presence of such airport hazards. Such markers and lights shall be installed, operated and maintained at the expense of the City of Concord.

g. Additional Review Required

For all expanding uses or proposed projects within the Airport Overlay District, City of Concord Development Services and the City of Concord Aviation Director shall be included in the review process to determine compliance with the Airport Overlay District.

PART V MANUFACTURED HOME OVERLAY (MHOD) DISTRICTS

Section 4-20 Purpose

The purpose of this Section is to provide sufficient land area for the provision of manufactured housing in order to implement NCGS § 160A-383.1 and to provide affordable housing opportunities for low and moderate income persons.

A manufactured home is defined as a dwelling unit that:

- Is not constructed in accordance with the standards of the North Carolina Residential Building Code for One- and Two-Family Dwellings;
- Is composed of one or more components, each of which was substantially assembled in a manufacturing plant and designed to be transported to the home site on its own chassis;
- Exceeds forty feet in length and eight feet in width; and
- Is constructed to the Federal Manufactures Construction Standards and is so labeled. For purposes of this Part, a "manufactured home" does not include a structure which otherwise complies with this subsection, but which was built prior to June 15, 1976, which units shall be classified as "mobile homes."

Section 4-21 Modular Homes Exempted

Manufactured Housing Constructed to meet the N.C. State Building Code (Modular Homes) shall be treated the same as stick-built housing.

Section 4-22 Establishment

This Section establishes three Manufactured Home Overlay Districts in order to provide flexibility with regard to various manufactured home products: MH-1, MH-2 and MHP.

Section 4-23 Classification of Manufactured Homes and Recreational Vehicles

The following classification system is hereby adopted for purposes of this Section:

MANUFACTURED HOME TYPE I- A single-section manufactured home.

MANUFACTURED HOME TYPE II- A multi-section manufactured home.

RECREATIONAL VEHICLE - A vehicular or portable unit mounted on a chassis and wheels, and which is primarily designed to provide temporary living quarters and either has its own motive power or is mounted on, or drawn by, a motor vehicle. Examples are: travel trailers, truck campers, camping trailers, and motor homes.

Section 4-24 MH-1, Manufactured Home Overlay 1

1. Purpose -The purpose of the MH-1, Manufactured Home Overlay District, is to provide for the principal use of land developed in harmony with the Underlying Zoning District regulations; however, permitting the substitution of a Manufactured Home as a Principal Building, provided the specific design and/or installation regulations appearing in Section 4-28, are met.

2. Uses Permitted

Use permitted as of right within the MH-1 Overlay District include:

- All uses permitted in the Underlying Zoning District (See Table of Permitted Uses, Chapter 3, Section 3-8 of this Ordinance).
 - Manufactured Homes - Type I (permanent installations only)
 - Manufactured Homes - Type II (permanent installations only)
- 3. Design Standards** - See Section 4-28, Design and Installation Standards for Individual Manufactured Homes.

Section 4-25 MH-2, Manufactured Home Overlay 2

- 1. Purpose** -The purpose of the MH-2, Manufactured Home Overlay District, is to provide for the Principal Use of land developed in harmony with the Underlying Zoning District regulations; however, permitting the substitution of a Manufactured Home as a Principal Building, provided the specific design and/or installation regulations appearing in section 4-28 are met.
- 2. Uses Permitted**

Use permitted as of right within the MH-2 Overlay District include:

- All uses permitted in the Underlying Zoning District. (See Table of Permitted Uses, Chapter 3, Section 3-8 of this Ordinance).
 - Manufactured Homes - Type II (permanent installations only)
- 3. Design Standards**
- See Section 4-28, Design and Installation Standards for Individual Manufactured Homes.

Section 4-26 MHP Manufactured Home Park Overlay

- 1. Purpose.** The purpose of the MHP, Manufactured Home Overlay District is to provide for the Principal Use of land developed in harmony with the Underlying Zoning District regulations; however, permitting the substitution of a Manufactured Home as a Principal Building provided the specific design and/or installation regulations appearing in 4-28 of this Ordinance are met.
- 2. Uses Permitted**

Use permitted as of right within the MHP Overlay District include:

- All uses permitted in the Underlying Zoning District (see Table of Permitted Uses, Chapter 3, Section 3-8 of this Ordinance).
- Manufactured Home Park (permanent and/or temporary installation of Type I and/or Type II Manufactured Homes)

- Manufactured Homes - Type I (permanent installations only when not located within a Manufactured Home Park)
- Manufactured Homes - Type II (permanent installations only when not located within a Manufactured Home Park)
- Recreational Vehicles (temporary installations only within a Manufactured Home Park not to exceed one hundred eighty (180) days for any one unit), provided that:
 - a) Recreational Vehicles shall not be used or occupied as a permanent Dwelling Unit.
 - b) Recreational Vehicles shall be located on separate spaces and shall be completely screened from view from any access streets by landscaping, berms or natural obstructions.
 - c) Not more than ten percent (10%) of the total number of spaces within the park may be occupied by a recreational vehicle. Spaces shall be designated on the approved Mobile Home Park site plan.

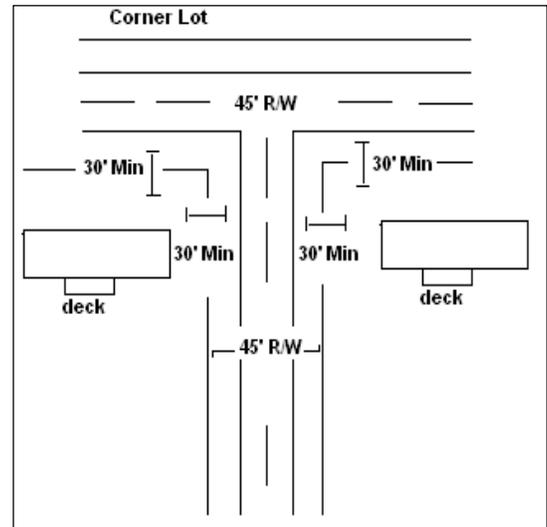
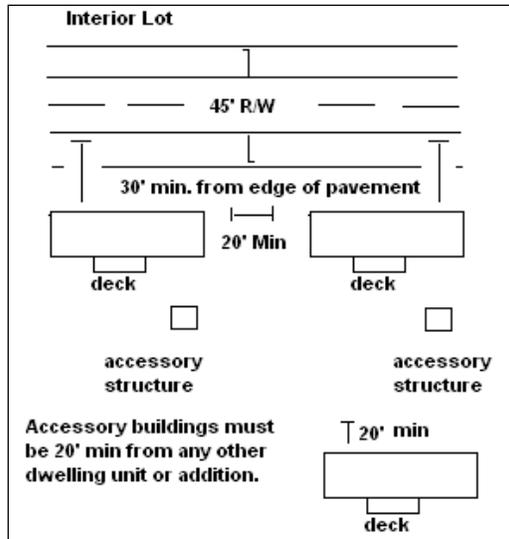
Section 4-27 Design and Installation Standards for Manufactured Home Parks

1. The location of two or more Class I or Class II manufactured homes on a parcel of land shall constitute a Manufactured Home Park and shall be subject to the provisions of this Section.
2. Each application for a manufactured home park shall be accompanied by a master plan. The master plan shall show the circulation pattern, manufactured home spaces, permanent structures and other site design requirements that may be considered essential. The master plan shall show how all proposed improvements will meet the design and installation standards of Chapter 4, Part VII.
3. The minimum land area for the entire site shall be 5 acres.
4. Dimensional and density requirements for manufactured homes shall comply with the criteria set forth in Table 1 in Chapter 4, Part VI.
5. All manufactured home spaces shall abut upon a paved internal street not less than 24 feet in paved width exclusive of parking.
6. All manufactured home spaces shall be served by at least a three-foot all-weather surface sidewalk.
7. All common spaces must be served by four-foot wide all-weather surface sidewalks.
8. Each space shall be graded as to prevent erosion and provide adequate storm drainage away from the dwelling unit.

9. Two paved off-street parking spaces shall be provided for each manufactured home space. Each parking space shall be at least 210 square feet in area and have a minimum width of 10 feet. No parking shall be permitted on the street.
10. Each manufactured home park shall have a minimum of eight percent of the total area set aside and developed for recreational purposes. If a swimming pool is provided, it shall be separated from other uses by a fence having a gate which is capable of remaining closed.
11. Operators of manufactured home parks must provide adequate solid waste refuse and recycling containers. Individual roll-out containers and/or large dumpsters may be used. Dumpsters shall be located at least 40 feet from any manufactured home unit and at least 10 feet away from internal residential streets. Recycling containers shall be emptied on a regular basis and shall be the responsibility of the park operator.
12. A manufactured home park must be served by an approved public water service or support an individual well on each lot. Approved public sewer or individual septic systems for each lot shall be required.
13. Adequate illumination shall be provided to ensure the safe movement of pedestrians and vehicles at night. Permanent buildings designed for and used by park residents shall remain illuminated to at least the level of 40-foot candles at all times.
14. A level 2 buffer yard shall be installed around the perimeter of the Manufactured Home Park (see Chapter 9 for planting requirements).
15. The park owner shall be responsible for the placement of the dwelling unit on the designated space within the park. This responsibility assures the placement of the dwelling unit adheres to the development standards listed below, including setbacks from lot lines and street as stated in this ordinance.

A violation of any section of this section and correction thereof shall be the responsibility of the park owner(s).

- a. Interior lots shall have the building setback for principle structures measured thirty feet from the edge of the pavement
- b. Corner lots shall have the building setback for principle structures measured thirty feet for the edge of the pavement of each right-of-way.
- c. Accessory structures shall not be located closer to any right-of-way than the principle structure.
- d. Accessory structures shall be placed twenty feet minimum from any other dwelling unit, additions to any dwelling unit and other accessory structures.



Section 4-28 Design and Installation Standards for Individual Manufactured Homes

All manufactured homes shall comply with the following design and installation standards:

1. Any manufactured home on an individual lot shall conform to the same building setback standards, side and rear yard requirements, standards for enclosures, access, vehicle parking, and square footage standards and requirements to which a conventional single-family residential dwelling on the same lot would be subject. This provision shall not apply to a Manufactured Home Park where the lots are not subdivided into separate tracts of land. (Refer to #15 above for placement standards.)
2. A minimum 3:12 roof pitch is required for all Type I units. Type II units are not required a minimum roof pitch.
3. A continuous curtain wall made from brick or foundation made from brick or split-faced block, unpierced except for ventilation and access, shall be installed under the outer perimeter of the dwelling from its base to the ground so as to be compatible with surrounding residential-uses. A brick curtain wall shall not be required for installations in a Manufactured Home Park or in the AO zoning district, in those cases other compatible skirting materials may be used.
4. The Dwelling shall be attached to a permanent foundation system in compliance with the N.C. State Building Code as may be amended, and the following requirements:

5. All wheels, axles, transporting lights and removable towing apparatus shall be permanently removed prior to installation of the dwelling unit. Hitches may remain, but shall be screened from view unless located within a manufactured home park.

6. For homes which are narrower than 17 feet in width, the unit shall be oriented on the lot so that its long axis is parallel to the street.

TABLE 1 (Dimensional Requirements for Manufactured Home Parks)

STANDARD	MANUFACTURED HOME TYPE I (SINGLE-SECTION)	MANUFACTURED HOME, TYPE II (MULTIPLE-SECTION)
Area of Space (square feet)	4,000	5,000
Width of Space (feet)	40	50
Depth of Space (feet)	100	100
Front Yard (in feet, measured from pavement edge of internal street to manufactured home)	20	20
Side Yard (in feet, between manufactured homes or permanent accessory structures)	20	20
Rear Yard (in feet between manufactured homes or permanent accessory structures)	20	20